

REMARKS

In the Office Action dated September 16, 2010, in which claims 78-100 were pending, the Examiner:

acknowledged the election of Species IV, Figures 18-24, drawn to claims 78-100, but also withdrew claim 82 as being directed to one of the non-elected species of the invention;

rejected claims 89-91 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement;

rejected claims 83, 85-86, 89-94 and 97-100 under 35 U.S.C. § 112, second paragraph, as being indefinite;

rejected claims 78-81 and 84-87 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,856,663 to Colditz et al. ("Colditz") in view of U.S. Patent No. 2,336,432 to Wilson ("Wilson");

rejected claim 83 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and in further view of U.S. Patent No. 3,960,242 to Saxonmeyer ("Saxonmeyer"); and

rejected claims 88-100 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and in further view of U.S. Patent No. 860,359 to Dudley ("Dudley").

Applicant hereby amends claims 79-81, 83-88, 89-96 and 97-99, cancels claim 78 and adds new claims 101-110. Claim 82 is withdrawn.

The Examiner rejected claims 89-91 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner asserts that the claim recitations regarding an "alignment arrangement" and a "catch element" are not described in the Specification in such a manner as to enable one of ordinary skill in the art to use the "alignment arrangement" and/or the "catch element". Applicant respectfully disagrees. For instance, in paragraphs [0179]-[0183] of the Specification and Figures 17-19 of the Drawings, the present application describes the structure and method of operation of the alignment arrangement 260 and catch element 266. In one

embodiment, the alignment arrangement 260 is shown as being a U-shaped body with displaceable arms 261, 262, pivot arms 263, 264 that connect the displaceable arms 261, 262 to the frame 250, and a catch element 266. The catch element 266 is described as a wire arranged in a track formed in each of the arms 261, 262 and connected thereto by an eye or a loop of the arms 261, 262 (Specification, paragraph [0180]-[0181]; Drawings, Figure 17). Figures 17-19 of the Drawings show how the catch element 266 is drawn along the alignment arrangement 260 by a guiding arrangement such that the catch element 266 is moved toward a distal end of the alignment arrangement 260 and the frame 250 (Drawings, Figures 17-19). The actuation of the catch element 266, thus, aligns the structure with the opening defined in the frame 250. Then, by lifting the frame 250, the structure (i.e., a tip of a rotor blade of a windmill) is inserted into the opening of the frame 250 (Specification, paragraph [0183]). Applicant respectfully submits that, in view of the above, the present application adequately describes the structure and operation of the alignment arrangement 260 and catch element 266 such that one of ordinary skill in the art would understand how to make and use the same. Therefore, the present application is enabling with regard to, at least, the alignment arrangement and the catch element. Accordingly, Applicant respectfully submits that the rejection of claims 89-91 under 35 U.S.C. § 112, first paragraph, is improper and should be withdrawn.

The Examiner rejected claims 83, 85-86, 89-94 and 97-100 under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Examiner asserts that claims 83, 85-86, 89-94 and 97-100 utilize terminology such as “means” and “means for” without clearly indicating whether Applicant intended to invoke the provisions of 35 U.S.C. § 112, sixth paragraph, regarding the “means plus function” claim format. Although Applicant respectfully disagrees with the rejection, in order to advance prosecution, Applicant herein amends claims 83, 85 and 86. Accordingly, Applicant respectfully requests that the rejection of claims 83, 85-86, 92-94 and 97-100 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Examiner also rejected claims 89-91 under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Examiner asserts that the limitation of “withdrawing the catch element along the guiding means”, as recited in claim 89, does not appear to be what is actually taking place when the catch element is “moved in relation to the guiding means”. Although Applicant respectfully disagrees with the rejection, in order to advance prosecution, Applicant herein amends claim 89 to recite “~~withdrawing~~ drawing the catch element along the guiding means”. Accordingly, Applicant respectfully requests that the rejection of claims 89-91 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Examiner rejected claims 79-81 and 84-100 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and claims 88-100 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and in further view of Dudley. A rejection under 35 U.S.C. § 103(a) is improper unless the Examiner establishes a *prima facie* case of obviousness. A *prima facie* case of obviousness is not established unless the prior art references, either alone or in combination, teach or suggest **each and every** claim recitation.

Applicant’s amended claim 88, which was amended to be independent to incorporate original claim 78 and to include additional recitations, recites, *inter alia*, a device for enabling access to a structure above ground level by lowering and /or lifting the device in relation to the structure, the device comprising an alignment arrangement configured to extend outward from perimeter of the first endless frame structure, engage the structure and move the structure into alignment with the opening defined by the first endless frame structure.

Colditz and Wilson, either alone or in combination, do not teach or suggest a device for enabling access to a structure above ground level that includes an *alignment arrangement*, as recited in amended claim 88, which the Examiner admits (Office Action, p. 7, ll. 8-10).

Dudley does not add to the teachings of Colditz and Wilson, at least in that Dudley also does not teach or suggest an *alignment arrangement*, as specifically recited in amended claim 88, for several reasons. First, Dudley is directed to a movable scaffold including numerous scaffold sections having

frictional contact wheels that engage a chimney, spire, monument or other structure (Dudley, p. 1, ll. 1-21; Figure 2). Dudley teaches that the scaffold sections are lashed together by a lash chain 21 that passes horizontally around the assembly of scaffold sections, the slack being drawn out of the chain 21 to press the scaffold sections against the structure (Dudley, p. 1, ll. 21-26; Figure 2). One of ordinary skill in the art would understand that the scaffold sections of Dudley are aligned circumferentially about the structure by a user and, then, the chain 21 would be pulled taught to form the scaffold as a unified assembly of scaffold sections about the centrally-disposed structure. Therefore, Dudley teaches or, at least, suggests that a user, not some element of the scaffold, aligns the scaffold with the structure and *visa versa*. Thus, Dudley does not teach or even remotely suggest a device having an alignment arrangement configured to extend outward from perimeter of the first endless frame structure, engage the structure and move the structure into alignment with the opening defined by the first endless frame structure, as recited in amended claim 88.

Second, Dudley does not teach or suggest *an alignment arrangement configured to extend outward from perimeter of the first endless frame structure*, as recited in amended claim 88. If anything, Dudley teaches away from this recitation. For instance, the Examiner asserts that the uprights 1, the wheel 4 and the spur 5, having a sharpened end 6 and an operating end 7, of Dudley form various parts of an assembly that teaches the *alignment arrangement* of claim 88. However, Dudley does not teach or suggest that any of the uprights 1, the wheel 4 and the spur 5 move outside of a perimeter defined by the assembly of scaffold sections. In fact, Dudley teaches that the uprights 1, the wheel 4 and the spur 5 only engage the chimney, spire, monument or other structure when positioned along an inward-facing surface of the assembly of scaffold sections (Dudley, Figures 1-2). Thus, Dudley does not teach or suggest *an alignment arrangement configured to extend outward from perimeter of the first endless frame structure*, as recited in amended claim 88, and, if anything, teaches away from this recitation.

Therefore, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest each and every recitation of amended claim 88. Since claims 79-81, 84-87 and 89-95 depend, either directly or indirectly, from claim 88 and include additional recitations thereto, Applicant respectfully submits that the

rejection of claims 79-81, 84-87 and 88-95 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and in further view of Dudley is improper for at least these reasons, and should be withdrawn.

In addition, regarding claim 89, amended claim 89 further recites that the alignment arrangement comprises a first displaceable arm having guiding means, the first displaceable arm being adapted to be brought from a first position to a second position when the device is to be aligned with the structure, the first displaceable arm being, when in the second position, capable of bringing a catch element into contact with the structure via the guiding means of the first displaceable arm, and bringing the device in approximate or complete alignment with the structure by drawing the catch element along the guiding means of the first displaceable arm while the catch element is in contact with the structure. As discussed above, Colditz and Wilson, either alone or in combination, do not teach or suggest a device for enabling access to a structure above ground level that includes an *alignment arrangement*, as recited in amended claim 89, which the Examiner admits (Office Action, p. 7, ll. 8-10).

Dudley does not add to the teachings of Colditz and Wilson, at least in that Dudley also fails to teach or suggest each recitation of claim 89 for several reasons. First, as discussed above, Dudley does not teach or suggest an *alignment arrangement*, as recited in amended claim 88. Moreover, Dudley does not teach or even remotely suggest an *alignment arrangement* that includes a *first displaceable arm*, as recited in amended claim 89.

Second, Dudley does not teach or suggest an *alignment arrangement* including a *first displaceable arm capable of bringing the device in approximate or complete alignment with the structure*, as recited in amended claim 89. For instance, the Examiner asserts that the uprights 1, the wheel 4 and the spur 5, having a sharpened end 6 and an operating end 7, of Dudley form various parts of an assembly that teaches the *alignment arrangement* of claim 89. More specifically, the Examiner asserts that the operating end 7 of spur 5 of Dudley teaches the *first displaceable arm* of the claimed invention, the uprights 1 and the wheel 4 teach the *guiding means* of the claimed invention, and the spur 5, and, more particularly, the sharpened end 6 thereof, teaches the *catch element* of the claimed invention. However, Dudley does not teach or suggest that these elements (i.e., the uprights

1, wheels 4 and spur 5) align the scaffold with the structure. Instead, Dudley teaches that these elements (uprights 1, wheels 4 and spur 5) are utilized to “firmly secure [the scaffold sections] in place” about the structure (Dudley, p. 2, ll. 11). However, firmly securing one element to another cannot be equated to bringing those elements into alignment. Thus, Dudley does not teach or suggest an *alignment arrangement* including *a first displaceable arm capable of bringing the device in approximate or complete alignment with the structure*, as recited in amended claim 89.

Third, Dudley does not teach or suggest that these elements (i.e., the uprights 1, wheels 4 and spur 5) are capable of being drawn along one another. If anything, Dudley teaches away from this recitation. For instance, Dudley teaches that the spur 5 is pivotally mounted to the upright 1. The spur 5 of Dudley cannot possibly be “drawn along” the upright 1. Thus, Dudley does not teach and suggest an *alignment arrangement* that includes *a first displaceable arm capable of bringing the device in approximate or complete alignment with the structure by drawing a catch element along a guiding means of the first displaceable arm*, as recited in amended claim 89, and, if anything, teaches away from this recitation.

Regarding claim 90, amended claim 90 further recites a second displaceable arm that is capable of bringing the device in approximate or complete alignment with the structure by drawing the catch element along the guiding means of both the first displaceable arm and the second displaceable arm. As discussed above, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest a *first displaceable arm*, as recited in amended claim 89. For at least the same reasons, Colditz, Wilson and Dudley also fail to teach or suggest a *second displaceable arm*, as recited in amended claim 90.

Moreover, Colditz, Wilson and Dudley do not teach or suggest a second displaceable arm that operates on the catch element in concert with the first displaceable arm, namely, *a second displaceable arm that is capable of bringing the device in approximate or complete alignment with the structure by drawing the catch element along the guiding means of both the first displaceable arm and the second displaceable arm*, as recited in amended claim 90.

Regarding claim 91, amended claim 91 further recites that the first displaceable arm and the second displaceable arm are pivotally mounted on a

first support element and a second support element, respectively. Colditz and Wilson do not teach or suggest this recitation, which the Examiner admits (Office Action, p. 7, ll. 8-10). The Examiner asserts that Dudley teaches this recitation. In particular, the Examiner asserts that the operating end 7 of spur 5 of Dudley teaches the *first displaceable arm* and the *second displaceable arm* of the claimed invention; and the horizontal pieces 2 of Dudley teach the *first support element* and the *second support element* of the claimed invention. However, as illustrated in Figure 1 of Dudley, Dudley teaches that the spur 5 is not even in contact with the horizontal pieces 2. Therefore, Dudley cannot possibly teach that the operating end 7 or any other part of the spur 5 is pivotally mounted on the horizontal pieces 2. Thus, Dudley does not teach or suggest that *the first and second arms are pivotally mounted on a first and a second support element, respectively*, as recited in amended claim 91.

Regarding claim 95, amended claim 95 further recites a docking arrangement comprising a pair of flexible belts, each belt being arranged between a rigid end point and a belt tightener, and each of the belt tighteners being adapted to tighten the respective belt by bringing the respective belt from a relaxed state to a tightened state in order to fixate the structure in relation to the device. Colditz and Wilson do not teach or suggest a *docking arrangement comprising belts*, which the Examiner admits (Office Action, p. 7, ll. 8-10). Dudley does not add to the teachings of Colditz and Wilson, at least in that Dudley also does not teach or suggest a *docking arrangement comprising belts*, as specifically recited in amended claim 95. If anything, Dudley teaches away from this recitation. For instance, Dudley teaches that the scaffold sections are firmly secured about the structure by a lashing chain 21, not a belt. Also, Dudley teaches that slack in the chain 21 is taken up by rollers 27 driven by gear disks 30, not a belt tightener. However, Dudley is silent regarding flexible belts and belt tighteners. Thus, Dudley does not teach or even remotely suggest *a pair of flexible belts, each belt being arranged between a rigid end point and a belt tightener, and each of the belt tighteners being adapted to tighten the respective belt by bringing the respective belt from a relaxed state to a tightened state in order to fixate the structure in relation to the device*, as recited in amended claim 95, and, if anything, teaches away from these recitations.

Moreover, Dudley does not teach or suggest that the tightening of a belt *fixates the structure in relation to the device*, as also recited in amended claim 95. If anything, Dudley teaches away from this recitation. For instance, Dudley teaches that the scaffold sections are firmly secured to the structure by a lash chain 21 that is tightened around the scaffold sections to fixate the device in relation to the structure, not the other way around. Dudley also teaches that the scaffold can be modified (i.e., the spur wheels 8 are replaced) to prevent damage to the surface of the structure (Dudley, p. 2, ll. 38-42). Therefore, Dudley would surely not allow the chain 21, which is a hard and potentially abrasive element, to contact the structure. It is perhaps for this reason that Dudley teaches that the chains 21 are retained off of the surface of the structure by guides 23 (Dudley, Figure 2). In any event, Dudley teaches that the chain 21 does not contact the structure. Thus, Dudley does not teach or suggest that tightening of a *belt fixates the structure in relation to the device*, as recited in amended claim 95, and, if anything, teaches away from this recitation.

Applicant's amended claim 96 recites, *inter alia*, a device for enabling access to a structure above ground level, the device comprising an alignment arrangement configured to extend outward from the perimeter of the first endless path, engage the structure and move the structure into alignment with the opening defined by the endless path.

As discussed above, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest *an alignment arrangement configured to extend outward from the perimeter of the first endless path, engage the structure and move the structure into alignment with the opening defined by the endless path*, as recited in amended claim 96.

Therefore, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest each and every recitation of claim 96. Since claims 97-100 depend, either directly or indirectly, from claim 96 and include additional recitations thereto, Applicant respectfully submits that the rejection of claims 96-100 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and in further view of Dudley is improper for at least these reasons, and should be withdrawn.

In addition, regarding claim 97, claim 97 further recites that the alignment arrangement includes a first displaceable arm capable of bringing the device in approximate or complete alignment with a structure by drawing a catch element along a guiding means of the first displaceable arm. As discussed above, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest *an alignment arrangement that includes a first displaceable arm capable of bringing the device in approximate or complete alignment with a structure by drawing a catch element along a guiding means of the first displaceable arm*, as recited in amended claim 97.

Regarding claim 98, amended claim 98 further recites that the alignment arrangement includes a second displaceable arm that is capable of bringing the device in approximate or complete alignment with the structure by drawing the catch element along the guiding means of both the first displaceable arm and the second displaceable arm. As discussed above, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest a *second displaceable arm*, as recited in amended claim 98.

Regarding claim 99, amended claim 99 further recites a rotatably mounted docking means that is adapted to fixate the structure in relation to the device. As discussed above, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest a *docking means that is adapted to fixate the structure in relation to the device*, as recited in amended claim 99.

Therefore, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest each and every recitation of claims 79-81 and 84-100. Accordingly, Applicant respectfully submits that the rejection of claims 79-81 and 84-100 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and in further view of Dudley is improper for at least these reasons, and should be withdrawn.

The Examiner rejected claim 83 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson, Dudley and in further view of Saxonmeyer.

Applicant's claim 83 depends from amended claim 88, which recites, *inter alia*, an alignment arrangement configured to extend outward from perimeter of

the first endless frame structure, engage the structure and move the structure into alignment with the opening defined by the first endless frame structure.

As discussed above, Colditz, Wilson and Dudley, either alone or in combination, do not teach or suggest *an alignment arrangement configured to extend outward from perimeter of the first endless frame structure, engage the structure and move the structure into alignment with the opening defined by the first endless frame structure*, as recited in amended claim 88.

Saxonmeyer does not add to the teachings of Colditz, Wilson and Dudley, at least in that Saxonmeyer also does not teach or suggest this recitation. If anything, Saxonmeyer teaches away from an *alignment arrangement*, as recited in amended claim 88. For instance, Saxonmeyer is directed to an orbital service bridge 41 for treating the inner surface of a dome 20 of a domed building (Saxonmeyer, Abstract). Saxonmeyer teaches that the bridge 41 is fixedly supported relative to the dome 20 by rigid supports, including beams 30 that support the base of the bridge 41 and a pivotal support bearing assembly 40 that connects the bridge 41 to the uppermost point of the dome 20 (Saxonmeyer, Figure 2). Therefore, Saxonmeyer teaches that the bridge 41 cannot be aligned relative to the dome 20. Thus, Saxonmeyer does not teach or suggest an *alignment arrangement* (i.e., for aligning the structure relative to the device), as recited in amended claim 88, and, if anything, teaches away from this recitation.

Therefore, Colditz, Wilson, Dudley and Saxonmeyer, either alone or in combination, do not teach or suggest each and every recitation of claim 88. Since claim 83 depends directly from claim 88 and includes additional recitations thereto, Applicant respectfully submits that the rejection of claim 83 under 35 U.S.C. § 103(a) as being unpatentable over Colditz in view of Wilson and Dudley and in further view of Saxonmeyer is improper for at least these reasons, and should be withdrawn.

Applicant respectfully submits that nothing in the current Amendment constitutes new matter. Support for the amendments may be found in, at least, claims 78-100 as previously presented, paragraphs [0178]-[0188] of the Specification and Figures 17-19.

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Response to Office Action dated: 2/16/11

Having traversed each and every rejection, Applicant respectfully requests claims 79-81 and 83-110 be passed to issue.

Applicant hereby petitions for a two-month extension of time to respond to the present Office Action. Applicant believes that fees are due in the amounts of \$245.00 for the two-month extension of time, \$110.00 for the addition of one (1) independent claim in excess of three (3), and \$208.00 for the addition of eight (8) dependent claims in excess of twenty (20). Applicant's Attorneys hereby authorize the Commissioner to charge the two-month extension fee of \$563.00 to the Deposit Account 13-0235. Applicant believes that no other fees are due in connection with this Amendment and Response; however, if any fees are deemed necessary, please charge them to Deposit Account 13-0235.

Respectfully submitted,

By /Marina F. Cunningham/
Marina F. Cunningham
Registration No. 38,419
Attorney for Applicant

McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, Connecticut
06103-3410